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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,822	11/21/2003	Jan Chipchase	088245-1060	1339
23524 7590 07/29/2009 FOLEY & LARDNER LLP 150 EAST GILMAN STREET P.O. BOX 1497 MADISON, WI 53701-1497			EXAMINER PERUNGAVOOR, VENKATANARAY	
			ART UNIT 2432	PAPER NUMBER
			MAIL DATE 07/20/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,822

Applicant(s)

CHIPCHASE, JAN

Examiner

Venkat Perungavoor

Art Unit

2432

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-21, 37-54, 70-72, 74, 75 and 77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-21, 37-54, 70-72, 74-75, 77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/11/2009 have been fully considered but they are not persuasive.

The Applicant argues that Sharp reference(US Patent 7343329) fails to disclose the physical item being dispensed, but rather discloses software being dispensed. And second the Applicant argues that receiving second selection and storing the electronic in the physical item is not disclosed by Sharp.

Sharp discloses a vending machine that dispenses software that is downloaded onto devices, e.g. portable devices like PALM. Sharp further discloses the user making a selection of the software to downloaded onto the portable system and making payment for the software that was purchased see Col 4 Ln 56-67. Sharp additionally discloses the directory/menus being emulated into the device from the ATM, i.e. vending machine, see Col 10 Ln 49-54.

Hence, the limitation "the providing of the physical item" is satisfied by the portable devices, removable devices, and other media that is initially inserted into the device and afterward the devices is returned to normal state after download. The Examiner interprets the limitation "providing the physical item" is equivalent to returning

to a normal state after download and during the process of download the device is inactive, i.e. not capable of functioning, not "providing" service fro the user.

The Applicant arguments with regard to the dependent claims are also not persuasive. As Sharp discloses the physical item being any item that is removable that includes tattoos, jewelry and etc see Col 10 Ln 15-26.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-6,8-21,37-54,70-72, 74-75, 77 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 7343329 to Sharp.

Regarding Claim 1, Sharp discloses storing a storage element item in a computerized vending machine see Fig. 1 item 103,104,105;

receiving entity a first selection associated with an electronic item through an input interface of a computerized vending machine see Col 9 Ln 65-Col 10 Ln 5;

electronically receiving a second selection associated with a physical item through the input interface of the computerized vending machine, wherein the physical item includes a storage element see Col 10 Ln 6-14;

storing the electronic item in the storage element of the physical item in response to the received first selection and the received second selection see Col 10 Ln 18-26; and

the computerized vending machine providing the physical item wherein the electronic item is accessible from the physical item see Fig. 5.

Regarding Claim 2-11, 20-21, 38-46, 54, Sharp discloses the virtual entity being a service provided through RFID through a remote station see Col 10 Ln 55-59.

Regarding Claim 12-19, 47-53, Sharp discloses the physical entity taking many forms including rings, watches, jewelry and cards see Col 9 Ln 43-52.

Regarding Claim 37, 70, Sharp discloses a memory having program code stored therein see Col 12 Ln 64-65; and

a processor disposed in communication with said memory for carrying out instructions in accordance with said stored program code see Col 13 Ln 5-15;

wherein said program code, when executed by said processor, causes said system to perform operations comprising:

receiving a first selection associated with an electronic item see Col 9 Ln 65-Col 10 Ln 5;

receiving of a second selection associated with a physical entity item, wherein the physical item includes a storage element see Col 10 Ln 6-10;

storing the electronic item in the storage element of the physical item in response to the received first selection and the received second selection see Col 10 Ln 18-26 ; and providing the physical item wherein the electronic item is accessible from the physical item see Fig. 5.

Regarding Claim 72, 74, 77, Sharp discloses the receiving specifications of one or more physical entity cosmetic attributes see Col 13 Ln 59-65.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkat Perungavoor whose telephone number is (571)272-7213. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. P./
Examiner, Art Unit 2432
July 8, 2009

/Jung Kim/
Primary Examiner, AU 2432